

Judge: Injunction against water rule limited to 13 states

By JAMES MacPHERSON, Associated Press

BISMARCK, N.D. (AP) — A federal judge in North Dakota said Friday that his injunction blocking a new Obama administration rule aimed at regulating some small waterways applies only to the 13 states that sued to block it, and not nationwide.

The ruling by U.S. District Judge Ralph Erickson clarified the temporary injunction he issued last week at the request of North Dakota and 12 other states. They sought to stop the U.S. Environmental Protection Agency and the Army Corps of Engineers from regulating some small streams, tributaries and wetlands under the Clean Water Act.

"Because there are competing sovereign interests and competing judicial rulings, the court declines to extend the preliminary injunction at issue beyond the entities actually before it," Erickson wrote.

The EPA had maintained after Erickson's initial ruling that the injunction applied in only those 13 states, and said it had begun enforcing it elsewhere. The states had argued that the judge made no geographical limitation in his ruling and it should apply everywhere.

"No harm, no foul for North Dakota and the 12 other states," said North Dakota Attorney General Wayne Stenehjem, who filed the original lawsuit on behalf of those states. "It's unfortunate for the other states because they will have to abide by the ruling."

The states involved in the lawsuit with North Dakota are Alaska, Arizona, Arkansas, Colorado, Idaho, Missouri, Montana, Nebraska, New Mexico, Nevada, South Dakota and Wyoming.

The EPA did not immediately respond to an email message seeking comment.

Erickson, who is based in Fargo, wrote that there are "compelling reasons in favor of both extension of the injunction and limitation of the injunction.

"On the one hand, there is a desirability for uniformity regarding a national rule with national application. On the other hand, there is the idea of respecting the decisions of other courts and other sovereign states."

Stenehjem said a total of 31 states have filed various lawsuits against the ruling. The states involved "cover 75 percent of the nation's landmass," he said.

District judges in other high-profile cases have issued orders that apply nationwide, over the federal government's objection.

One recent example was earlier this year in Texas, where U.S. District Judge Andrew Hanen issued a nationwide order blocking the Obama administration from implementing rules to spare nearly 5 million

people living in the U.S. illegally from deportation. Hanen issued his order in a lawsuit filed by Texas and 25 other states. The government has appealed

The water rule is a response to calls from the U.S. Supreme Court and Congress for the EPA to clarify which smaller waterways are protected. The EPA said the new law aims to help landowners understand which waters fall under the Clean Water Act.

Thirteen states led by North Dakota sued, claiming the new rule illegally expands federal jurisdiction and infringes on their sovereignty. Some critics have also argued the rule does nothing to increase water quality.

The government countered that the rule will help protect the nation's waters from pollution and development and safeguard drinking water for 117 million Americans.

Several other lawsuits remain from other states, farm and business groups that hope to delay or block the rule. State officials say the regulations could be harmful to farmers and landowners who might have to pay for extra permits or redesign their property to manage small bodies of water on their private land.

The government argued in court last month that the new rule clarifies some of the ambiguity in the law and actually makes it easier for the states to manage some waterways.

Copyright 2015 The Associated Press